



GOVERNMENT OF KERALA

Law (Legislation–Publication) Department

NOTIFICATION

No. 10834/Leg.Pbn.2/2015/Law. *Dated, Thiruvananthapuram, 19th June, 2015.*

The following Act of Parliament published in the Gazette of India, Extraordinary, Part II, Section I dated the 10th day of December, 2014 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President of India on the 9th day of December, 2014.

By order of the Governor,

A. C. FRANCIS,
Joint Secretary.

THE MERCHANT SHIPPING (AMENDMENT) ACT 2014

(Act No. 31 of 2014)

AN

ACT

further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Merchant Shipping (Amendment) Act, 2014.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part XIB.—In the Merchant Shipping Act, 1958 (44 of 1958), (hereinafter referred to as the principal Act), after Part XIA, the following Part shall be inserted, namely:—

‘PART XIB

CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

356P. *Application.*—(1) Save as otherwise provided in this Part, this Part shall apply to—

(a) every Indian ship, wherever it is;

(b) ships not entitled to fly the flag of India, but which operate under the authority of India; and

(c) ships that enter a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976) or any other law for the time being in force.

(2) This Part shall not apply to any warship, naval auxiliary or other ship owned or operated by or under the authority of India and used, for the time being, only on Government non-commercial service:

Provided that in case of such ships, the Government shall ensure by the adoption of appropriate measures not impairing operations or operational capabilities of such ship that such ships are operated in a prescribed manner consistent with this Part.

356Q. *Definitions.*—In this Part, unless the context otherwise requires,—

(a) “anti-fouling system” means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;

(b) “authority” means—

(i) the Government of India under whose authority the ship is operating;

(ii) with respect to a ship entitled to fly a flag of any other country, the Government of that country; and

(iii) with respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to Indian coast over which Government of India exercises sovereign rights for the purposes of exploration and exploitation of its natural resources (including Floating Storage Units and Floating Production Storage and Offloading Units), the Government of India;

(c) “Committee” means the Marine Environment Protection Committee of the Organisation;

(d) “Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;

(e) “gross tonnage” means the gross tonnage, calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(f) “international voyage” means a voyage, by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State;

(g) “length” means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(h) “Organisation” means the International Maritime Organisation;

(i) “port” shall have the same meaning as assigned to it in the Indian Port Act, 1908 (*15 of 1908*) the Major Port Trusts Act, 1963 (*38 of 1963*) or under any other law for the time being in force and shall include any terminal, either within the port limits or otherwise;

(j) “ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

356R. *Control of anti-fouling systems.*— (1) Every Indian ship and other ships which are not entitled to fly Indian flag but operating under the authority of India, shall comply with the requirements set forth in this Part, including the applicable standards and requirements as prescribed from time to time as well as effective measures to ensure that such ships comply with the requirements, as may be prescribed from time to time.

(2) All other vessels to which this Part applies shall comply with requirements of the anti-fouling systems as prescribed from time to time.

356S. *Issuance of International Anti-Fouling System Certificate.*— (1) No Indian ship or other ships entitled to fly Indian flag or operating under its authority, which is of 400 gross tonnage and above shall engage in International Voyage unless there is on-board, in respect of that ship, a certificate issued by the Director-General, to be called as International Anti-Fouling System Certificate, in such form, for such duration and subject to such procedures and conditions as may be prescribed, from time to time.

(2) No Indian ship or other ships entitled to fly Indian flag or operating under its authority excluding fixed or floating platforms, Floating Storage Units and Floating Production Storage and Offloading Units which is of 24 metres or more in length, but less than 400 gross tonnage, shall engage in international voyage unless there is on-board a declaration in such form and subject to such procedures and conditions as may be prescribed, from time to time.

(3) Indian ships entitled to fly Indian flag which are of 400 gross tonnage and above, with appropriate conditions as applicable for each type of ships and not engaged in international voyage and are required to be registered under this Act, shall be issued an Indian Anti-Fouling System Certificate, as may be prescribed from time to time.

356T. *Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in foreign countries.*—(1) The Central Government may, at the request of the Government of a country to which the Convention applies, cause an International Anti-Fouling System Certificate to be issued in accordance with the Convention in respect of any ship of that country to which the Convention applies, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been so issued on a request, as per the procedure prescribed in this behalf from time to time.

(2) The Central Government may request the Government of a country to which the Convention applies, to issue an International Anti-Fouling System Certificate in accordance with the Convention in respect of a ship to which this Part applies and the certificate so issued in pursuance of such a request shall contain a statement that it has been so issued and shall have the same effect as if it had been issued by the Central Government under this Act.

356U. *Controls of waste materials.*—Taking into account the international rules, standards and requirements, the Central Government shall prescribe the rules and take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system, are collected, handled, treated and disposed of in a safe and environmentally sound manner, by any person in India, to protect human health and the environment.

356V. *Record of anti-fouling systems.*—(1) Every ship to which this Part applies shall maintain, a record of anti-fouling systems in the prescribed form.

(2) The manner, in which the record of anti-fouling systems to be maintained shall be prescribed having regard to the provisions of the Convention and this Part.

356W. *Inspection and control of all ships above 400 gross tonnage.*—(1) Any person authorised by the Director-General as Surveyor in this behalf may inspect, at any reasonable time, any ship to which any of the provisions of this Part applies, for the purposes of—

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(b) verifying that, where required, there is on-board a valid International Anti-Fouling System Certificate or a declaration on anti-fouling system; or

(c) brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account the procedures as prescribed from time to time; and

(d) verifying any record required to be maintained on-board.

(2) For the purposes of clause (c) of sub-section (1), the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(3) Any person authorised by the Director-General as surveyor in this behalf, may, certify any matter referred to in sub-section (1) in respect of such ship as a copy of the records of the ship to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

356X. *Information regarding contravention of the provisions of Convention.*—(1) If, on receipt of a report from a surveyor or other person authorised to inspect a Ship, the Director-General is satisfied that any provision of this Part has been contravened by such ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may—

(a) detain the ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) levy penalty on such ship as specified in section 436:

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the ship from proceeding to sea and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(2) On receipt of information from the Government of any country to which the Convention applies that a ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and, if satisfied that sufficient evidence is available, conduct investigation of the alleged violations and take appropriate measures in respect thereof.

356Y. *Power to make rules.*—(1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) appropriate measures for operation of ships under the proviso to sub-section (2) of section 356P;

(b) the standards, requirements and measures to ensure compliance under section 356R;

(c) procedure and conditions and the fees which may be levied for Inspection and issuance of international Anti-Fouling Systems Certificate under section 356S;

(d) procedure and the fees which may be levied for issuance of Anti-Fouling Systems Certificate for foreign ships in India and Indian ships in foreign countries under section 356T;

(e) procedure for collection, handling and disposal of wastes under section 356U;

(f) the format of record of Anti-Fouling Systems, the manner in which such record shall be maintained under section 356V;

(g) any other matter which is required to be or may be prescribed.’.

3. Amendment of section 436.—In section 436 of the principal Act, after serial number 115G and the entries relating thereto, the following shall be inserted, namely:—

Sl. No.	Offences	Section of this Act to which offence has reference	Penalties
1	2	3	4
“115H.	If the owner of an Indian ship fails to comply with section 356R	356R	Fine which may extend to fifteen lakh rupees.
115-I	If a master proceeds or attempts to proceed to sea in contravention of section 356S	356S	Fine which may extend to three lakh rupees.
115-J	If the owner of an Indian ship or any person fails to comply with the rules made or measures taken by the Central Government under section 356U	356U	Fine which may extend to one lakh and fifty thousand rupees.
115K	If the master of a ship fails to maintain records as required by section 356V	356V	Fine which may extend to one lakh and fifty thousand rupees.
115L	If the master of a ship fails to comply with sub-section (I) of section 356W	356W(i)	Fine which may extend to one lakh and fifty thousand rupees.”.